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MAR 27 2018

STATE AUDITORS OFFICE

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

March 27, 2018

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Charnita Walker regarding a proposed statutory amendment to Chapter 558 (2018-371)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Charnita Walker on March 27, 2018.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "John R. Ashcroft", written in a cursive style.

John R. Ashcroft

cc: Hon. Joshua D. Hawley
Sheri Hoffman
Trish Vincent

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable John Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 6th day of November, 2018, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(OFFICIAL BALLOT TITLE)

RECEIVED
2018 MAR 27 AM 9:20
John Ashcroft
SECRETARY OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____
I _____, being first duly sworn, say

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS		Zip Code	Cong. Dist.	NAME (Printed or Typed)
		(Street, No PO Boxes)	(City, Town or Village)			
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NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes) (City, Town or Village)		Zip Code	Cong. Dist.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

Signature of Affiant

Printed Name of Affiant

Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A.D. _____.

Signature of Notary

Address of Notary

Notary Public (Seal)
My commission expires _____

PROPOSED MEASURE

Be it enacted by the people of the state of Missouri:

Section 558.019, RSMo, subsection 3 would be repealed. In lieu of it a new subsection relating to prison commitment terms for first-time dangerous felony offenders and offenders with multiple convictions of dangerous felonies. The current law reads as follows (with the matter to be deleted in [brackets], and the new matter shown underlined):

§ 558.019 R.S.Mo. (2017)

§ 558.019. Prior felony convictions, minimum prison terms -- prison commitment defined -- dangerous felony, minimum term prison term, how calculated -- sentencing commission created, members, duties -- expenses -- cooperation with commission -- restorative justice methods -- restitution fund

1. This section shall not be construed to affect the powers of the governor under article IV, section 7, of the Missouri Constitution. This statute shall not affect those provisions of section 565.020, section 566.125, or section 571.015, which set minimum terms of sentences, or the provisions of section 559.115, relating to probation.

2. The provisions of subsections 2 to 5 of this section shall be applicable to all classes of felonies except those set forth in chapter 579, or in chapter 195 prior to January 1, 2017, and those otherwise excluded in subsection 1 of this section. For the purposes of this section, "prison commitment" means and is the receipt by the department of corrections of an offender after sentencing. For purposes of this section, prior prison commitments to the department of corrections shall not include an offenders first incarceration prior to release on probation under section 217.362 or an offenders incarceration prior to release on probation under section 559.115. Other provisions of the law to the contrary notwithstanding, any offender who has been found guilty of a felony other than a dangerous felony as defined in section 556.061 and is committed to the department of corrections shall be required to serve the following minimum prison terms:

(1) If the offender has one previous prison commitment to the department of corrections for a felony offense, the minimum prison term which the offender must serve shall be forty percent of his or her sentence or until the offender attains seventy years of age, and has served at least thirty percent of the sentence imposed, whichever occurs first;

(2) If the offender has two previous prison commitments to the department of corrections for felonies unrelated to the present offense, the minimum prison term which the offender must serve shall be fifty percent of his or her sentence or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first;

(3) If the offender has three or more previous prison commitments to the department of corrections for felonies unrelated to the present offense, the minimum prison term which the offender must serve shall be eighty percent of his or her sentence or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.

[3. Other provisions of the law to the contrary notwithstanding, any offender who has been found guilty of a dangerous felony as defined in section 556.061 and is committed to the department of corrections shall be required to serve a minimum prison term of eighty-five percent of the sentence imposed by the court or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.]

3. Other provisions of the law to the contrary notwithstanding, any offender who has more than once been found guilty of a dangerous felony as defined in section 556.061 and is committed to the department of corrections shall be required to serve a minimum prison term of eighty-five percent of the sentence imposed by the court or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.;

(1) If the offender has one previous prison commitment to the department of corrections for a dangerous felony offense, the minimum prison term which the offender must serve shall be fifty percent of their sentence or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first. If the offender has maintained the best possible institutional score for the year prior to their scheduled parole hearing date, then parole shall be granted. If parole is denied, a hearing shall be scheduled every two years until the offender is paroled. The first-time conviction exception of this subsection shall be applicable to all dangerous felonies occurring on or after August 28, 1994.

4. For the purpose of determining the minimum prison term to be served, the following calculations shall apply:

(1) A sentence of life shall be calculated to be thirty years;

(2) Any sentence either alone or in the aggregate with other consecutive sentences for offenses committed at or near the same time which is over seventy-five years shall be calculated to be seventy-five years.

5. For purposes of this section, the term "minimum prison term" shall mean time required to be served by the offender before he or she is eligible for parole, conditional release or other early release by the department of corrections.

6. (1) A sentencing advisory commission is hereby created to consist of eleven members. One member shall be appointed by the speaker of the house. One member shall be appointed by the president pro tem of the senate. One member shall be the director of the department of corrections. Six members shall be appointed by and serve at the pleasure of the governor from among the following: the public defender commission; private citizens; a private member of the Missouri Bar; the board of probation and parole; and a prosecutor. Two members shall be appointed by the supreme court, one from a metropolitan area and one from a rural area. All members shall be appointed to a four-year term. All members of the sentencing commission appointed prior to August 28, 1994, shall continue to serve on the sentencing advisory commission at the pleasure of the governor.

(2) The commission shall study sentencing practices in the circuit courts throughout the state for the purpose of determining whether and to what extent disparities exist among the various circuit courts with respect to the length of sentences imposed and the use of probation for offenders convicted of the same or similar offenses and with similar criminal histories. The commission shall also study and examine whether and to what extent sentencing disparity among economic and social classes exists in relation to the sentence of death and if so, the reasons therefor, if sentences are comparable to other states, if the length of the sentence is appropriate, and the rate of rehabilitation based on sentence. It shall compile statistics, examine cases, draw conclusions, and perform other duties relevant to the research and investigation of disparities in death penalty sentencing among economic and social classes.

(3) The commission shall study alternative sentences, prison work programs, work release, home-based incarceration, probation and parole options, and any other programs and report the feasibility of these options in Missouri.

(4) The governor shall select a chairperson who shall call meetings of the commission as required or permitted pursuant to the purpose of the sentencing commission.

(5) The members of the commission shall not receive compensation for their duties on the commission, but shall be reimbursed for actual and necessary expenses incurred in the performance of these duties and for which they are not reimbursed by reason of their other paid positions.

(6) The circuit and associate circuit courts of this state, the office of the state courts administrator, the department of public safety, and the department of corrections shall cooperate with the commission by providing information or access to information needed by the commission. The office of the state court administrator will provide needed staffing resources.

7. Courts shall retain discretion to lower or exceed the sentence recommended by the commission as otherwise allowable by law, and to order restorative justice methods, when applicable.

8. If the imposition or execution of a sentence is suspended, the court may order any or all of the following restorative justice methods, or any other method that the court finds just or appropriate:

- (1) Restitution to any victim or a statutorily created fund for costs incurred as a result of the offender's actions;
- (2) Offender treatment programs;
- (3) Mandatory community service;
- (4) Work release programs in local facilities; and
- (5) Community-based residential and nonresidential programs.

9. The provisions of this section shall apply only to offenses occurring on or after August 28, 2003.

10. Pursuant to subdivision (1) of subsection 8 of this section, the court may order the assessment and payment of a designated amount of restitution to a county law enforcement restitution fund established by the county commission pursuant to section 50.565. Such contribution shall not exceed three hundred dollars for any charged offense. Any restitution moneys deposited into the county law enforcement restitution fund pursuant to this section shall only be expended pursuant to the provisions of section 50.565.

11. A judge may order payment to a restitution fund only if such fund had been created by ordinance or resolution of a county of the state of Missouri prior to sentencing. A judge shall not have any direct supervisory authority or administrative control over any fund to which the judge is ordering a person to make payment.

12. A person who fails to make a payment to a county law enforcement restitution fund may not have his or her probation revoked solely for failing to make such payment unless the judge, after evidentiary hearing, makes a finding supported by a preponderance of the evidence that the person either willfully refused to make the payment or that the person willfully, intentionally, and purposefully failed to make sufficient bona fide efforts to acquire the resources to pay.

13. Nothing in this section shall be construed to allow the sentencing advisory commission to issue recommended sentences in specific cases pending in the courts of this state.